

CAMBRIDGE LICENSE COMMISSION HEARING
CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION DECISION HEARING

LICENSE COMMISSION BOARD MEMBERS:

ACTING CHAIR ARTHUR J. GOLDBERG

POLICE COMMISSIONER ROBERT HAAS

FIRE CHIEF GERALD REARDON

STAFF: EXECUTIVE DIRECTOR ELIZABETH LINT

AT: Michael J. Lombardi Building
Basement Conference Room
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

DATE: Thursday, August 27, 2015

TIME: 10:06 a.m.

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INDEX OF AGENDA

<u>AGENDA MATTERS</u>	<u>PAGE</u>
APPLICATION: GODEN STREET, INC.	4
APPLICATION: ZETA MU CHAPTER OF KAPPA ALPHA THETA AT MIT	21
APPLICATION: WHA00, INC., D/B/A GENKI YA	26
APPLICATION: HK FOOD GROUP 1030, LLC D/B/A WAYPOINT	32

P R O C E E D I N G S

August 27, 2015

EXECUTIVE DIRECTOR ELIZABETH LINT: If anybody has a cell phone on, we would appreciate it if you would turn it off.

This is the License Commission Decision Hearing meeting, Thursday morning August 27, it is 10:08. We are in the Michael J. Lombardi Building, 831 Mass. Ave, Basement Conference Room.

Before you are the Commissioners: Acting Chair Arthur Goldberg, Chief Gerald Reardon and Commissioner Robert Haas.

This meeting is being both audio taped and videotaped.

APPLICATION: GODEN STREET, INC.

EXECUTIVE DIRECTOR ELIZABETH LINT: And the first matter left from the August 11th hearing is the application Goden Street Incorporated, Kevin Treanor, manager, has applied to transfer the all alcoholic beverages restaurant license currently held by TON Venture Group, LLC, doing business as Hit Wicket at 1172 Cambridge Street.

The current license is issued as a 1 a.m. license and the applicant is applying to operate from 11 a.m. to 1 a.m. Sunday through Wednesday, 11 a.m. to 2 a.m. Thursday through Saturday with a seating capacity of 72 and total occupancy of 99.

Applicant is also applying for an alteration of premise and an entertainment license to include live music with amplification

for a one-person band, radio, music that can be played below, at, or above conversation level and 8 TVs.

ACTING CHAIR ARTHUR GOLDBERG: I wanted to say preliminarily I'm the Acting Chair of the License Commission replacing Andrea Jackson temporarily, and I did not participate as a commissioner at the August 11th hearing, so I will not be voting on the matters that are before the Commission today. I may participate in the discussion but I'm not going to vote.

ATTY SCOTT WOLF: Good morning. My name is Scott Wolf from the Law Firm of Schlossberg, LLC representing Kevin Treanor, Goden Street, Inc., as the applicant.

THE REPORTER: Counsel, would you please spell your first and last name.

ATTY SCOTT WOLF: Of course. Scott, S-C-O-T-T, Wolf, W-O-L-F.

So at the preliminary hearing two-and-a-half weeks ago we presented the application, and there was some community feedback regarding the hours for the weekend as well as the live entertainment requested by the applicants.

As part of coming here today, we did some outreach to the community, had meetings with not just the direct abutters but with anyone that decided to come to an open meeting that Mr. Treanor had at the premises, which included direct abutters plus other people that live on Cambridge Street.

Each of the direct abutters consents to the project. There are other abutters who are opposed to the late opening hours on Thursday, Friday, Saturday, as well as many abutters expressed concern about noise.

A few concessions that Mr. Treanor has

agreed to make as part of this application would be to reduce the opening hours on Thursday, Friday and Saturday to 1 a.m.

ACTING CHAIR ARTHUR GOLDBERG: You are saying opening hours. Do you mean closing hours?

ATTY SCOTT WOLF: I'm sorry. Closing hours, yeah, 11 a.m. to 1 a.m. on Thursday, Friday and Saturday as well as to drop the entertainment license, the request for the live entertainment and that's after discussions with the abutters during the open meeting that he had.

POLICE COMMISSIONER ROBERT HAAS:

Counsel, I noticed in some correspondence that I received that there was a concern about the 9:00 and the windows and things like that and I think Mr. Treanor made some representations that he was willing to make concessions on that front as well so I just want to make sure --

KEVIN TREANOR: The windows will be closed after 9:00 every night, and I've already talked to the landlord, he's doing extensive work upstairs and we've -- regarding the soundproofing, we are going to make sure that everything is totally soundproofed before opening.

ACTING CHAIR ARTHUR GOLDBERG: Was there an alteration on the above conversation level request, or is that still part of the application?

ATTY SCOTT WOLF: That's still part of the application.

The nature of a pub and restaurant is that -- you know, no one likes a quiet bar or a quiet restaurant or a quiet pub, and above conversation level, it is not dance club level, it is merely you can hear the music and speak at the same time.

At conversation level sometimes the music can get drowned out by the conversation. And it's almost impossible to measure what is conversation level. So to have it above, isn't to say that it's, you know, that it's going to be at, you know, some excessive noise. It's just if you walk into a restaurant, and people are talking, you can also hear the music. At conversation level, you may not be able to discern the music against the conversation. So that's the rationale for maintaining the request in the application.

KEVIN TREANOR: I want to say I visited at least 20 bars in that neighborhood, and everyone talks about the Druid, which I have opened, it's very hard to distinguish what is above conversation level but it's not like we are going to be having it really loud. Just where you can hear it, you know, and we want to be

successful, you know, and we want to reach out to the younger population in the neighborhood.

ATTY SCOTT WOLF: And it is consistent with the prior license, to my knowledge.

POLICE COMMISSIONER ROBERT HAAS: Uh-huh. So one lingering issue that I think the residents brought up, and it's a little bit tricky, is just really how you manage your patrons outside of the restaurant. Making sure that -- particularly at closing, you don't have a gathering there, a lot of noise or disruption. Also, during the course -- and we've had this in other establishments, you can only go to capacity, so we have seen other establishments that reach capacity, and then the patrons wait outside, so if your business is going to be popular, just making sure that you have some business plans in place, or operational plans in place, that are going to effectively manage and control people

who may be waiting outside to get in, also because you can't smoke inside, trying to keep -- again, I think in a diplomatic way, keeping people away from Tremont Street in terms of smoking and things like that and large amount of conversation.

We understand that you just can't go out there and be draconian about it, but I think if there's some effort on your part to kind've regulate what the activity is, particularly if it is being drawn to your business. I think that will go a long way with the neighbors as well.

KEVIN TREANOR: I try to address that. You know, I can't guaranty it that it can't go down Tremont Street, but my idea, I have 25 years of experience, and I ran a 500-capacity club in Boston, it was a big college hang-out, I have a lot of experience, and my idea would be

definitely have a door staff and to keep them to the right side where Puritan is, the restaurant next door to me.

And I will do my utmost, I have experience, and I will take one of my best door guys probably from the Phoenix Landing, and he will regulate it as best as possible.

We will try to keep them away from Tremont Street and guide them towards Cambridge Street as much as we can. Can I guaranty it? No.

Uber has been a great thing for our business. I will make sure that the Ubers and taxis come. We'll have them -- try and get them out as quick as possible. I will keep them inside, you know, inside the door to when we can keep them in to 1:30, and try to disperse them in a nice orderly manner. That's all we can do. I have loads of experience, that's what I can say

on that.

POLICE COMMISSIONER ROBERT HAAS: I think it's gonna go a long way with the neighbors at least if you are demonstrating you are making those efforts to do those kinds of things.

The other things I'm curious about, are you planning on having recording equipment at the doorway?

KEVIN TREANOR: You mean like cameras?

POLICE COMMISSIONER ROBERT HAAS:
Cameras.

KEVIN TREANOR: I was planning on cameras, yes. We have them at the Phoenix and they'll come in very handy on certain things there.

FIRE CHIEF GERALD REARDON: Mr. Treanor, is this your intention that door people will be your crowd control manager?

KEVIN TREANOR: Yeah, and I'm gonna be on

premises too.

FIRE CHIEF GERALD REARDON: And you are aware of the crowd control manager laws?

KEVIN TREANOR: Absolutely, yeah, I have done -- 25 years in the business, and I know the last thing I want is some of the neighbors in Tremont Street coming in.

FIRE CHIEF GERALD REARDON: And the other issue you just mentioned, and just to be above board, is that, you know, you must keep that entrance clear, so you can't stack people in the entrance while they are trying to leave as well.

KEVIN TREANOR: The good thing about our new plan, we have two doors for entry, so there will be a gap, you know, so that should help the sound pollution and we keep people inside the front door and disperse them in an orderly manner when the Ubers or taxis arrive.

There will be a better system and the plan is to put in a new entrance, which has a foyer and then another door, so that should help the soundproofing.

ACTING CHAIR ARTHUR GOLDBERG: On the entertainment, I just want to be sure I heard this right, did you say no live music?

KEVIN TREANOR: No live music.

ACTING CHAIR ARTHUR GOLDBERG: So you -- not even acoustic?

KEVIN TREANOR: G13.

Not even acoustic.

FIRE CHIEF GERALD REARDON: So no amplification?

KEVIN TREANOR: No amplification at all. I removed that off because of the neighbors' concerns, yes.

EXECUTIVE DIRECTOR ELIZABETH LINT: Mr. Chair, for clarification, I did review the file

for the prior licensee and they had not applied for above conversation level. It was actually below conversation level.

ATTY SCOTT WOLF: I'm sorry. My apologies.

So it would be a change from the prior use but our rationale remains the same having -- I may have been one of the few people that did go to that bar beforehand and it was very quiet. It didn't have a vibe. So that's just a personal representation.

FIRE CHIEF GERALD REARDON: But to be clear, we're talking about something that's above conversation level but not excessive.

KEVIN TREANOR: Absolutely not excessive.

FIRE CHIEF GERALD REARDON: We have a host of licensees out there who have above conversation level for that purpose, also with the understanding that it's not going to be --

KEVIN TREANOR: My plan is to serve food late every night and --

FIRE CHIEF GERALD REARDON: It's not going to get into the club level?

KEVIN TREANOR: Absolutely not. This is more -- as I go back to where my restaurant in Downtown Crossing, The Merchant, is the exact same. We have music above conversation level. We don't have DJs. It's a restaurant/bar.

FIRE CHIEF GERALD REARDON: And that was my final one, even though it's not live, but DJs, you don't plan on having DJs?

KEVIN TREANOR: No DJs at all.

FIRE CHIEF GERALD REARDON: Because DJs have a propensity to get loud no matter what you say.

KEVIN TREANOR: Yeah, we have DJS in The Phoenix. Yeah, it is a totally different vibe in this restaurant.

ACTING CHAIR ARTHUR GOLDBERG: Are there any other more questions?

POLICE COMMISSIONER ROBERT HAAS: No other questions.

FIRE CHIEF GERALD REARDON: All set.

EXECUTIVE DIRECTOR ELIZABETH LINT: I do have a letter from Councilor Toomey that he asked that I read into the record.

He says he's writing to lend support to the application for Goden Street Incorporated. Mr. Treanor has operated as a business in Cambridge for many years and has an excellent representation as a responsible business owner. Mr. Treanor's held a community meeting to discuss his new business and while he's met some opposition on certain items, he has taken steps to compromise. As I understand, Mr. Treanor will be asking for a 1 a.m. closing rather than the initial 2 a.m. closing, which is more in line

with what the neighbors desire and more in line with our Inman Square businesses.

Business decisions such as these are difficult to make, but Mr. Treanor has made a good faith effort to compromise with his neighbors to help these concerns.

Mr. Treanor has a great concept for a restaurant and the facade improvement will enhance the streetscape along Cambridge Street.

Inman Square and Cambridge Street continue to be a culinary destination and I hope Mr. Treanor's business will continue to add to that culture.

Thank you for taking this into consideration.

ACTING CHAIR ARTHUR GOLDBERG: Did you have anything further you wanted to add?

KEVIN TREANOR: No, I think we've said everything.

ATTY SCOTT WOLF: I hope that the board understands we've adequately made our best efforts to address the neighbors' concerns and that the board acts favorably on our application.

FIRE CHIEF GERALD REARDON: To be clear, we are talking about 11 a.m. to 1 a.m. all week?

ATTY SCOTT WOLF: Yes.

POLICE COMMISSIONER ROBERT HAAS: Mr. Chair, I would like to make a motion.

I make a motion to approve the application with the following stipulations: One, that there will be a 1 a.m. closing for the nights of operations; that, secondly, there's an agreement with respect to reducing the sound levels after 9 p.m., whether that's with the closing of the windows and things like that; and then, thirdly, modifications to the entertainment license, as described, with a six-month review.

FIRE CHIEF GERALD REARDON: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in
favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

KEVIN TREANOR: Thank you, Commissioners.

ATTY SCOTT WOLF: Thank you very much.

APPLICATION: ZETA MU CHAPTER OF KAPPA ALPHA

THETA AT MIT

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Zeta Mu Chapter of Kappa Alpha
Theater MIT, a nonprofit corporation, has applied
for an exemption to the Attorney General's
regulation 940 CMR 13, which prohibits gaming.

Applicant is also seeking exemption from
the Cambridge Rules and Regulations with regard
to the entertainment/gaming policy prohibiting

casino nights passed March 23, 2006.

ACTING CHAIR ARTHUR GOLDBERG: Is anyone here for Zeta Mu?

Please come up.

LINDSEY WATTLEY: Lindsey Wattley, a member of Zeta Mu.

THE REPORTER: Lindsey, spell your first name and last name.

LINDSEY WATTLEY: L-I-N-D-S-E-Y.
W-A-T-T-L-E-Y.

POLICE COMMISSIONER ROBERT HAAS: As I recall, there were two principal things we were looking for: One was a letter of support from student activities that's endorsing your proposal for the one-night casino; and then secondly, was an agreement that the Zeta Mu was going to meet with the MIT police to make sure that you had a safety plan in place relative how you were going to regulate the gaming that evening.

My understanding, after talking to Chief DeFava, Zeta Mu has not met with the police department at this point in time, and I'm not aware of whether or not we have received a letter relative to MIT's support of this initiative.

EXECUTIVE DIRECTOR ELIZABETH LINT: We have not received anything from MIT.

LINDSEY WATTLEY: I'm not on the decision board for this event. I was hear to hear the decision.

My understanding is, we're highly considering not going forward with this event, but we would like to hear the decision at this time.

POLICE COMMISSIONER ROBERT HAAS: So from my perspective alone, given the fact those principal issues have not been revolved, I wasn't prepared to move forward on the application.

That's not to say that at some future

date if you were inclined to want to go forward with the casino night, if you could satisfy those requirements, and again, the university supported it, and the MIT police were satisfied with your plan, that we could -- I would assume the Commission would -- I don't want to speak for the Chairman, but the Commission would take that matter up again. Because you are not planning to do this until about October is my understanding, right?

LINDSEY WATTLEY: Yes.

FIRE CHIEF GERALD REARDON: So, similarly, I'm in the same boat.

Obviously, without the support of the university sending their letter of approval that you are doing this and the MIT Police Department approving it, because it is on their campus, then, obviously, I can't support it at this particular time.

Similar to the Commissioner, you know, if things change and you get all those hurdles and you want to come back, that would be a different story, but as far as a decision today, it would be, from my perspective, it's negative.

LINDSEY WATTLEY: All right.

ACTING CHAIR ARTHUR GOLDBERG: So do we have a motion?

POLICE COMMISSIONER ROBERT HAAS: So I was initially going to make a motion to continue the matter, but if you are contemplating not moving forward and you are looking for a decision, given the fact that we did, in fact, have a hearing on this at the general hearing, the issues that we had described with respect to what we are looking for follow-up have not been completed, my motion would be at this point in time is to deny the application.

FIRE CHIEF GERALD REARDON: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ACTING CHAIR ARTHUR GOLDBERG: Aye.

LINDSEY WATTLEY: Thank you.

APPLICATION: WAHOO, INC D/B/A GENKI YA

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Wahoo, Inc., doing business as Genki Ya, Que Tai Duong, manager, holder of a wine and malt restaurant license at 231 Alewife Brook Parkway has applied for a change of manager to David Thank Nang Hoang, new stockholder, transfer of stock and new officer/director.

I spoke with Attorney Hu, she was not able to be here this morning. She understood what the problems were in terms of this application due to the License Commission's rules

and regulations in regard to nontransferable licenses, and I told her I would speak with her later on today in regard to whatever the board thinks is the best way to go forward with this.

POLICE COMMISSIONER ROBERT HAAS: Just say that to me again. Spoke to the attorney ...

EXECUTIVE DIRECTOR ELIZABETH LINT: She's not available.

Technically under our rules and regs, the way this appears, by losing some stockholders and bringing in stockholders, that actually is a transfer that's not allowed under our rules because it's a nonvalue license. It is a no value nontransferable license.

ACTING CHAIR ARTHUR GOLDBERG: Is there anyone else here for Genki Ya?

FIRE CHIEF GERALD REARDON: The other question, Ms. Lint, is: The ABCC, though, what

-- do we have a problem then?

EXECUTIVE DIRECTOR ELIZABETH LINT: The problem is that this would then proceed as a new license application for a new no value nontransferable license.

The ABCC really disproves of the way we handle some of these and they have told us in the past it is really a change of officers and directors and a transfer of stock and new stockholders, so we get into that catch 22.

I did put a call again this morning to the ABCC. I have not spoken anyone there as of yet today.

The other problem is, if it is a new license application, then the existing license would have to be the turned in at the time -- to the Commission at the time that the new application is sent to the ABCC, and that could seriously hamper their business.

FIRE CHIEF GERALD REARDON: They would have no liquor license during the period of time that it is adjudicated?

EXECUTIVE DIRECTOR ELIZABETH LINT:

Correct.

POLICE COMMISSIONER ROBERT HAAS: I guess there's one of two ways we can go.

We can continue the matter to bring the applicant back in to see if there's a willingness on their part to go for a period of time without a license, or we could simply go ahead and deny the transfer based on the fact that it is not permissible by our regulations.

I am looking to the Chief to figure out which course or which direction he would like to go.

CHIEF GERALD REARDON: I think I would opt to give them the time to continue, at which time if we can't, there may have to be a denial

at that point, but give them the time to --

EXECUTIVE DIRECTOR ELIZABETH LINT: That would give them the opportunity to file an application for a new license.

POLICE COMMISSIONER ROBERT HAAS: Right.

ACTING CHAIR ARTHUR GOLDBERG: Do you know, do we have a deadline by which we have to act?

EXECUTIVE DIRECTOR ELIZABETH LINT: We do. Although she was inclined to follow whatever --

ACTING CHAIR ARTHUR GOLDBERG: She agreed to extend that?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

FIRE CHIEF GERALD REARDON: So I guess I make a motion that we continue this to whatever date that counsel feels works.

POLICE COMMISSIONER ROBERT HAAS: Can I make an amendment? I mean because they are

already operating with a set of officers/directors in violation -- or technically in violation of their license, that we do it sooner than later and just get an indication from them what they are willing to do as opposed to pushing it up too far.

EXECUTIVE DIRECTOR ELIZABETH LINT: We can ask them to come in on September 8th.

ACTING CHAIR ARTHUR GOLDBERG: Do we have a motion?

FIRE CHIEF GERALD REARDON: The motion would be to continue to September 8th and find out from counsel what their options will be.

POLICE COMMISSIONER ROBERT HAAS:
Seconded.

ACTING CHAIR ARTHUR GOLDBERG: All in favor.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

APPLICATION: HK FOOD GROUP, LLC, D/B/A WAYPOINT

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application, HK Food Group, 1030, LLC, doing business as Waypoint. Michael Scelfo, manager has applied for a new all alcoholic beverages as a restaurant license at 1030 Massachusetts Avenue with proposed hours of operation from 4 p.m. to 1 a.m. Monday through Friday and 10:30 a.m. to 1 a.m. Saturday and Sunday and a proposed seating capacity at 145.

Applicant is also applying for an entertainment license to include audio tape machine/CD/computerized digital media to be played below, at, or above conversation level, and 2 TVs.

ACTING CHAIR ARTHUR GOLDBERG: Hello.

ATTY JAMES RAFFERTY: Good morning, Mr.

Chairman. For the record, James Rafferty on behalf of the applicant. Seated to my right is Michael Scelfo, S-C-E-L-F-O. He is one of the principals of the LLC, and manager, and to Mr. Scelfo's right, is Mr. Brian Lesser, L-E-S-S-E-R.

Both Mr. Lesser and Mr. Scelfo testified at the public hearing -- at the two public hearings that the Commission held on this application.

ACTING CHAIR ARTHUR GOLDBERG: So even though I was not on the Commission at the last meeting I know there was discussion about the sound -- the acousticians, I think that's the word for it, getting together and meeting.

Did that happen?

ATTY JAMES RAFFERTY: Well, I can report that on the same evening of the hearing we heard from one of our abutters, who is one of the lead

advocates around the sound issue, and he did give us the information, and our sound engineer, Ben Markham, of Acentech is present this morning.

We asked Mr. Markham to attend the hearing, and he told me about his engagement, and if you wanted to take a moment, he could briefly tell you what has occurred from his perspective.

ACTING CHAIR ARTHUR GOLDBERG: That's fine.

ATTY JAMES RAFFERTY: Mr. Markham, would you be able to come up and spell your name for the stenographer and maybe you could sit in this chair here.

BEN MARKHAM: My name is Ben Markham, M-A-R-K-H-A-M. I work for Acentech A-C-E-N-T-E-C-H. I'm an acoustic consultant. Thank you, Jim.

ATTY JAMES RAFFERTY: Could you just share with the Commission -- the Commission's

aware of the activity you did, but since the hearing, the contact that you've had with the neighbors sound engineer.

BEN MARKHAM: I had a telephone call with Chris Storch.

ATTY JAMES RAFFERTY: Spell that.

BEN MARKHAM: S-T-O-R-C-H.

It is my understanding that Mr. Storch has been retained by the abutters to 1030 Mass. Ave property on Green Street to investigate the sound issues in parallel to my own investigation. We had a very pleasant conversation. The day before yesterday, he informed me that he had --

ATTY JAMES RAFFERTY: Can I just back you up.

You said provided information and data to Mr. Storch in response to -- during the course of that conversation, and when did that occur?

BEN MARKHAM: I'm sorry. Thanks.

The initial conversation that I had with him occurred just a couple days after the last hearing. I don't have the exact date.

ATTY JAMES RAFFERTY: Understood.

BEN MARKHAM: That was also a telephone call. I walked him through over the phone the information that was the basis of my analysis.

He had most of the information already that Mr. Lesser had provided.

There was one piece of information that he wasn't clear on. I sent him that information by email that same morning that we spoke.

ATTY JAMES RAFFERTY: Is it fair to say that within a few days then of the last hearing, you had provided to Mr. Storch all the information he had requested of you concerning your investigation?

BEN MARKHAM: Yes, it is fair to say

that. And furthermore, he acknowledged as much. He sent me an email back saying that he had everything he needed to do his analysis.

ATTY JAMES RAFFERTY: Did you hear anything further from Mr. Storch after you provided him the information?

BEN MARKHAM: Yes.

ATTY JAMES RAFFERTY: Could you share that with the Commission?

BEN MARKHAM: Two days ago I had a telephone call with Mr. Storch.

ATTY JAMES RAFFERTY: Did he contact you or did you contact him?

BEN MARKHAM: He called me, but it was in response to -- I had reached out to him to ask him if he needed anything else and he contacted me in response to that.

ATTY JAMES RAFFERTY: After you reached out to him and he got back to you, what did you

learn? What was said during that conversation?

BEN MARKHAM: He told me that he had done an analysis of the mechanical systems serving the restaurant and that the noise levels he calculated at the abutter locations were the same as -- were substantially and numerically the same as what I had calculated.

ATTY JAMES RAFFERTY: During the course of that conversation, did Mr. Storch indicate any conclusions he was going to provide the neighbors with regard to his work?

BEN MARKHAM: He told me that he had at that point not yet put into writing his conclusions, but that he plans to do so and would be informing the residents that it was his opinion that he did not find that they had any grounds to object to the application for the license on the applicant on the basis of the sound that the restaurant would be producing.

He also told me that he would be doing some ambient sound measurements which he had not completed at the time of our conversation.

ATTY JAMES RAFFERTY: Have you received any copy of a report or any recommendations since that conversation?

BEN MARKHAM: I have not.

ATTY JAMES RAFFERTY: Thank you very much.

ACTING CHAIR ARTHUR GOLDBERG: Do we have, Elizabeth, do we have anything in writing from Mr. Storch?

EXECUTIVE DIRECTOR ELIZABETH LINT: I do not, no.

ACTING CHAIR ARTHUR GOLDBERG: I think there were other issues as well that were raised at the last hearing, or is that the one only you wanted to address today?

ATTY JAMES RAFFERTY: Candidly, my

understanding is that the Commission came very close to voting on the matter as we were urging them to do so, but the matter was continued to allow an opportunity for the two sound engineers to exchange information and we understood and respected that, so it was my understanding that in the interim we would provide the information and that was done immediately, and we have not heard anything beyond the conversations described by Mr. Markham this morning.

So I would hope the Commission now has satisfied itself that this applicant has provided information, worked cooperatively with neighbors and addressed their concerns.

I know neighbors are here, and I suspect they wish to speak, but my understanding is that was -- that was the issue that needed addressing, and that was my sense that the Commission declined to take a vote because -- to quote one

Commissioner -- we were almost there, but they wanted to give added time for the exchange of information between the experts.

The record is replete. There were two public hearings. The level of outreach, we have hosted two meetings at the premises, we toured the premises with the abutters, walked them through all the operations associated with the restaurant, including the location of the trash, where the deliveries would be occurring, the location of where the bar will be, where the tables will be, kitchen, provided details of mechanical equipment surrounding the kitchen exhaust system that will be implemented.

We made available our sound engineers, all the data from the mechanical engineer, specifically went out and researched and designed an exhaust system that is considered cutting edge, it was used in a location recently in

Boston both because of its acoustical benefits and environmental benefits.

We submitted hundreds of signatures in support of the application, over 100 from the immediate neighborhood and streets surrounding the property, and there was testimony at the hearings from witnesses who spoke favorably of the experience that Mr. Scelfo and Lesser had in Cambridge operating the Alden & Harlow restaurant.

So I think the record is complete with evidence to support the application, and we would urge the Commission to do so.

ACTING CHAIR ARTHUR GOLDBERG: So I know normally at these Decision hearings we don't normally take public testimony.

However, since we did ask to hear back on the noise issue, and we have heard from Mr. Markham, if there is someone here on behalf of

the neighbors, perhaps one person, who could speak on the noise issue, that would be welcome.

MARILYN WELLONS: Thank you very much, Mr. Chair. My name is Marilyn Wellons, M-A-R-I-L-Y-N W-E-L-L-O-N-S. And yes, I thank you for the opportunity to speak. We did hire an acoustician and his findings were essentially in line with Mr. Markham's.

The good news from our acoustician is that the restaurant will not, he thinks, noticeably add to the noise we hear from 1030 Mass. Ave.

The bad news, of course, is that we will -- is that the noise from 1030 Mass. Ave drowns any noise from the restaurant according to his calculations, and the bad news further is that we will, of course, live with the noise from street traffic on Mass. Ave as patrons leave and

enter. We will listen to the noise from the patrons as they claim their cars at 1 or later in the night. We may hear noise from work on site, as is permitted by the state and the city after 1 a.m. closing at any time.

So given our history with 1030 Mass. Ave, where the CO was reasonably held up pending compliance with the noise ordinance, and yet, it nevertheless remains marginally noncompliant with those standards.

We are glad for the good news, but we are very apprehensive considering our experience, and I would like to point out just to the board, the Commission, for 35 years this stretch of Mass. Ave has been considered by the city an area of special planning concern, and it is for that reason that there are various buffers that are along the business B1 and business B2 zones, between the commercial, the business, and the

residential zones to try to maintain residential quality of our own properties and those abutting us deeper into the residential district, and so that is the intention of the city now. Now, how that intention gets carried out and protected so that our health and property values remain is another matter.

And I understand that the License Commission and the police, among others, are the enforcement arms of the city concerning the noise ordinance.

And I believe if you look at the means available to the License Commission and the city to enforce the noise ordinance adequately, you will find it has not kept up with the times.

So I'm flagging this, because the noise from 1030 Mass. Ave and other lab buildings in the city as they permeate, as they spread throughout the city as demand grows, this will be

a continuing and increasing problem, in my opinion, and I'm leaving quite aside the issue of mixed-use development in Kendall Square and other places.

So while we're hoping that we also would enjoy going to the restaurant that's proposed, I would like to point out finally that the owners of the building are looking to this as an amenity and a marketing tool for their own purposes, and if you check their website, you will find that they map all the restaurants and amenities nearby. So it is not to their disadvantage.

And in granting in license, the Commission is essentially giving them a little pat on the back and allowing them to continue this marginal compliance and that is bothersome, and I believe the city needs to address its own enforcement mechanisms for the noise ordinance and standards.

ACTING CHAIR ARTHUR GOLDBERG: Thank you.

Any questions from the Commission?

FIRE CHIEF GERALD REARDON: No.

At the last meeting I was prepared to vote. Again, as we know, we've waited on the acoustic reports to find out what the impact was.

We are dealing with this particular licensee in this particular location, the building, the zoning is all approved for this type of use.

The licensee seems to have made efforts to meet and try to work with the neighborhood. This licensee is not responsible for the entire neighborhood in terms of noise, but we are dealing with this one right now, and I would like to make a motion that we approve the license for Waypoint doing business at 1030 Mass. Ave with the hours proposed from 4 p.m. to 1 a.m. Monday through Friday and 10:30 to 1 a.m. Saturday and

Sunday with a proposed seating of 145 patrons, with the application of the entertainment license to include the audio tape machine/CD/computerized digital media to be played below, at, or above conversation level and 2 TVs.

POLICE COMMISSIONER ROBERT HAAS: May I add to that motion that there be a six-month review.

FIRE CHIEF GERALD REARDON: A six-month review. I'm sorry.

POLICE COMMISSIONER ROBERT HAAS: I have a question for the Director: Do we have a baseline in terms of the noise generated by the building now, or do we need to get one before the applicant opens?

EXECUTIVE DIRECTOR ELIZABETH LINT: I believe Ms. Boyer has that. We've worked hand in hand with representatives from the building. I have been at building meetings as well.

POLICE COMMISSIONER ROBERT HAAS: And would be it possible to make arrangements with Ms. Boyer to do occasional readings after the restaurant opens just to confirm the findings of the acoustical engineers?

EXECUTIVE DIRECTOR ELIZABETH LINT:
Absolutely.

POLICE COMMISSIONER ROBERT HAAS: So I will second the Chief's motion.

ACTING CHAIR ARTHUR GOLDBERG: All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

ACTING CHAIR ARTHUR GOLDBERG: Thank you.

EXECUTIVE DIRECTOR ELIZABETH LINT:
That's all we have.

FIRE CHIEF GERALD REARDON: Motion to adjourn?

ACTING CHAIR ARTHUR GOLDBERG: Seconded.

All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

ACTING CHAIR ARTHUR GOLDBERG: We are
adjourned.

(Whereupon the meeting was adjourned.)

ERRATA SHEET

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I have read the foregoing transcript, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

CERTIFICATION

Commonwealth of Massachusetts

Norfolk, ss.

I, Jill Kourafas, a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of August, 2015.

Jill Kourafas
Certified Shorthand Reporter
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<u>0</u>	<u>7</u>
<u>02139</u> [1] - 1:13	<u>72</u> [1] - 4:15
<u>1</u>	<u>8</u>
<u>1</u> [13] - 4:11, 4:13, 7:3, 7:7, 18:17, 20:5, 20:11, 32:8, 32:9, 44:1, 44:3, 47:17, 47:18 <u>100</u> [1] - 42:3 <u>1030</u> [9] - 2:6, 32:4, 32:7, 35:8, 43:11, 43:14, 44:5, 45:16, 47:16 <u>10:06</u> [1] - 1:15 <u>10:08</u> [1] - 3:9 <u>10:30</u> [2] - 32:9, 47:18 <u>11</u> [4] - 4:13, 4:14, 7:7, 20:5 <u>1172</u> [1] - 4:9 <u>11th</u> [2] - 4:4, 5:8 <u>13</u> [1] - 21:15 <u>145</u> [2] - 32:11, 47:19 <u>14903</u> [1] - 52:14 <u>1:30</u> [1] - 12:17	<u>8</u> [1] - 5:3 <u>831</u> [2] - 1:13, 3:10 <u>8th</u> [2] - 31:6, 31:10
<u>2</u>	<u>9</u>
<u>2</u> [4] - 4:14, 18:18, 32:16, 48:4 <u>20</u> [1] - 9:14 <u>2006</u> [1] - 21:19 <u>2015</u> [3] - 1:14, 3:2, 52:11 <u>22</u> [1] - 28:8 <u>23</u> [1] - 21:19 <u>231</u> [1] - 26:10 <u>25</u> [2] - 11:16, 14:5 <u>27</u> [3] - 1:14, 3:2, 3:8 <u>28th</u> [1] - 52:11	<u>9</u> [1] - 20:14 <u>940</u> [1] - 21:15 <u>99</u> [1] - 4:16 <u>9:00</u> [2] - 7:15, 8:2
<u>3</u>	<u>A</u>
<u>35</u> [1] - 44:13	<u>A-C-E-N-T-E-C-H</u> [1] - 34:15 <u>a.m</u> [20] - 1:15, 4:11, 4:13, 4:14, 7:3, 7:7, 18:17, 18:18, 20:5, 20:11, 32:9, 32:10, 44:4, 47:17, 47:18 <u>ABCC</u> [4] - 27:17, 28:4, 28:10, 28:16 <u>able</u> [3] - 9:9, 26:15, 34:10 <u>absolutely</u> [4] - 14:4, 16:14, 17:4, 49:6 <u>abutter</u> [1] - 38:4 <u>abutters</u> [9] - 6:9, 6:12, 6:14, 6:15, 6:17, 7:11, 33:18, 35:8, 41:6 <u>abutting</u> [1] - 45:1 <u>according</u> [1] - 43:15 <u>accurate</u> [2] - 51:12, 52:9 <u>Acentech</u> [2] - 34:2, 34:14 <u>acknowledged</u> [1] - 36:19 <u>acoustic</u> [4] - 15:10, 15:11, 34:15, 47:5 <u>acoustical</u> [2] - 41:19, 49:4 <u>acoustician</u> [2] - 43:7, 43:9 <u>acousticians</u> [1] - 33:13 <u>act</u> [1] - 30:6 <u>Acting</u> [2] - 3:12, 5:5 <u>ACTING</u> [29] - 1:7, 5:4, 7:4, 8:8, 15:5, 15:9, 17:19, 19:15, 21:1, 22:1, 25:6, 25:19, 26:3, 27:14, 30:4, 30:10, 31:7, 31:14, 32:17, 33:10, 34:7, 39:9, 39:14, 42:13, 46:19, 49:9, 49:13, 49:18, 50:3
<u>4</u>	
<u>4</u> [2] - 32:8, 47:17	
<u>5</u>	
<u>500-capacity</u> [1] - 11:17	
<u>6</u>	
<u>617.786.7783</u> [1] - 1:18	

activities [1] - 22:13
activity [2] - 11:10, 34:19
acts [1] - 20:3
add [4] - 19:11, 19:16, 43:11, 48:6
added [1] - 41:1
address [4] - 11:14, 20:2, 39:17, 46:16
addressed [1] - 40:13
addressing [1] - 40:16
adequately [2] - 20:1, 45:13
adjourn [1] - 49:17
adjourned [2] - 50:4, 50:5
adjudicated [1] - 29:1
advocates [1] - 33:19
AGENDA [2] - 2:1, 2:1
ago [2] - 6:2, 37:9
agreed [2] - 7:1, 30:10
agreement [2] - 20:13, 22:15
ahead [1] - 29:9
alcoholic [2] - 4:7, 32:6
Alden [1] - 42:8
Alewife [1] - 26:10
allow [1] - 40:3
allowed [1] - 27:11
allowing [1] - 46:14
almost [2] - 9:3, 40:19
alone [1] - 23:15
ALPHA [2] - 2:4, 21:8
Alpha [1] - 21:12
alteration [2] - 4:18, 8:9
ambient [1] - 39:1
amendment [1] - 30:17
amenities [1] - 46:10
amenity [1] - 46:7
amount [1] - 11:5
amplification [3] - 4:19, 15:13, 15:14
analysis [3] - 36:7, 37:2, 38:2
AND/OR [1] - 52:17
Andrea [1] - 5:6
ANY [2] - 52:17, 52:17
apologies [1] - 16:4
applicant [10] - 4:12, 4:17, 5:15, 21:16, 29:7, 32:12, 33:1, 38:17, 40:11, 48:14

applicants [1] - 6:6
APPLICATION [8] - 2:2, 2:3, 2:5, 2:6, 4:1, 21:8, 26:5, 32:1
application [24] - 4:5, 6:3, 7:1, 8:11, 8:13, 9:12, 18:9, 20:3, 20:10, 21:12, 23:17, 25:17, 26:8, 26:17, 28:2, 28:13, 28:16, 30:2, 32:4, 33:9, 38:16, 42:3, 42:11, 48:1
applied [5] - 4:6, 15:19, 21:13, 26:11, 32:6
APPLY [1] - 52:17
applying [3] - 4:12, 4:17, 32:12
appreciate [1] - 3:5
apprehensive [1] - 44:11
approval [1] - 24:14
approve [2] - 20:9, 47:15
approved [1] - 47:8
approving [1] - 24:16
area [1] - 44:14
arms [1] - 45:9
arrangements [1] - 49:1
arrive [1] - 14:19
Arthur [1] - 3:13
ARTHUR [29] - 1:7, 5:4, 7:4, 8:8, 15:5, 15:9, 17:19, 19:15, 21:1, 22:1, 25:6, 25:19, 26:3, 27:14, 30:4, 30:10, 31:7, 31:14, 32:17, 33:10, 34:7, 39:9, 39:14, 42:13, 46:19, 49:9, 49:13, 49:18, 50:3
aside [1] - 46:1
associated [1] - 41:7
assume [1] - 24:4
AT [3] - 1:12, 2:4, 21:9
attend [1] - 34:3
Attorney [2] - 21:14, 26:14
attorney [1] - 27:5
ATTY [25] - 5:12, 5:18, 7:6, 8:12, 10:3, 16:3, 19:19, 20:6, 21:6, 32:18, 33:16, 34:9, 34:17, 35:5, 35:14, 36:4, 36:13, 37:3, 37:7, 37:11, 37:17, 38:7, 39:3, 39:7, 39:18
audio [3] - 3:15, 32:13, 48:2
August [5] - 1:14, 3:8, 4:4, 5:8, 52:11

<p>august [1] - 3:2</p> <p>available [3] - 27:7, 41:14, 45:12</p> <p>Ave [9] - 3:10, 35:9, 43:12, 43:14, 43:18, 44:5, 44:14, 45:16, 47:16</p> <p>Avenue [2] - 1:13, 32:7</p> <p>aware [3] - 14:3, 23:3, 34:19</p> <p>aye [10] - 21:3, 21:4, 26:2, 26:3, 31:16, 31:17, 49:11, 49:12, 50:1, 50:2</p>	<p>bring [1] - 29:6</p> <p>bringing [1] - 27:10</p> <p>Brook [1] - 26:11</p> <p>brought [1] - 10:7</p> <p>buffers [1] - 44:16</p> <p>Building [2] - 1:12, 3:10</p> <p>building [5] - 46:7, 47:8, 48:13, 48:17, 48:18</p> <p>buildings [1] - 45:16</p> <p>business [18] - 4:9, 10:16, 10:17, 11:11, 12:13, 14:5, 18:10, 18:12, 18:14, 19:2, 19:11, 26:8, 28:17, 32:5, 44:17, 44:18, 47:16</p> <p>businesses [1] - 19:1</p>
B	C
<p>B1 [1] - 44:17</p> <p>B2 [1] - 44:17</p> <p>bad [2] - 43:13, 43:16</p> <p>band [1] - 5:1</p> <p>bar [3] - 8:15, 16:8, 41:10</p> <p>bars [1] - 9:14</p> <p>based [1] - 29:10</p> <p>baseline [1] - 48:12</p> <p>Basement [2] - 1:12, 3:10</p> <p>basis [2] - 36:7, 38:17</p> <p>beforehand [1] - 16:8</p> <p>behalf [2] - 33:1, 42:18</p> <p>below [4] - 5:2, 16:2, 32:15, 48:3</p> <p>Ben [2] - 34:1, 34:13</p> <p>BEN [12] - 34:13, 35:3, 35:6, 35:19, 36:5, 36:18, 37:6, 37:9, 37:13, 38:1, 38:11, 39:6</p> <p>benefits [2] - 41:19, 42:1</p> <p>best [4] - 12:5, 12:7, 20:1, 27:2</p> <p>better [1] - 15:1</p> <p>between [2] - 41:2, 44:18</p> <p>beverages [2] - 4:7, 32:6</p> <p>beyond [1] - 40:8</p> <p>big [1] - 11:18</p> <p>bit [1] - 10:7</p> <p>BOARD [1] - 1:6</p> <p>board [6] - 14:10, 19:19, 20:3, 23:8, 27:2, 44:12</p> <p>boat [1] - 24:12</p> <p>Boston [2] - 11:18, 41:19</p> <p>bothersome [1] - 46:15</p> <p>Boyer [2] - 48:16, 49:2</p> <p>Brian [1] - 33:4</p> <p>briefly [1] - 34:5</p>	<p>calculated [2] - 38:4, 38:6</p> <p>calculations [1] - 43:16</p> <p>CAMBRIDGE [2] - 1:1, 1:2</p> <p>Cambridge [9] - 1:13, 4:10, 6:13, 12:9, 18:11, 19:8, 19:9, 21:17, 42:8</p> <p>cameras [3] - 13:9, 13:11, 13:13</p> <p>campus [1] - 24:16</p> <p>candidly [1] - 39:18</p> <p>capacity [4] - 4:15, 10:13, 10:15, 32:11</p> <p>CAPTURING [1] - 1:17</p> <p>carried [1] - 45:4</p> <p>cars [1] - 44:1</p> <p>casino [3] - 21:19, 22:14, 24:1</p> <p>catch [1] - 28:8</p> <p>cell [1] - 3:5</p> <p>certain [2] - 13:14, 18:15</p> <p>CERTIFICATION [2] - 52:1, 52:16</p> <p>Certified [1] - 52:14</p> <p>certify [1] - 52:7</p> <p>CERTIFYING [1] - 52:18</p> <p>Chair [2] - 3:13, 5:5</p> <p>chair [4] - 15:18, 20:8, 34:12, 43:4</p> <p>CHAIR [29] - 1:7, 5:4, 7:4, 8:8, 15:5, 15:9, 17:19, 19:15, 21:1, 22:1, 25:6, 25:19, 26:3, 27:14, 30:4, 30:10, 31:7, 31:14, 32:17, 33:10, 34:7, 39:9, 39:14, 42:13,</p>

46:19, 49:9, 49:13, 49:18, 50:3
Chairman [2] - 24:6, 32:19
CHANGE [6] - 51:4, 51:5, 51:6, 51:7, 51:8, 51:9
change [5] - 16:5, 25:1, 26:11, 28:6, 51:2
changes [1] - 51:11
Chapter [1] - 21:12
CHAPTER [2] - 2:3, 21:8
check [1] - 46:9
CHIEF [27] - 1:9, 13:16, 14:2, 14:8, 15:12, 16:11, 16:15, 17:2, 17:9, 17:13, 18:4, 20:4, 20:19, 21:4, 24:11, 25:18, 27:16, 28:18, 29:15, 30:13, 31:9, 31:17, 47:2, 48:8, 49:12, 49:16, 50:2
Chief [3] - 3:13, 22:19, 29:12
Chief's [1] - 49:8
Chris [1] - 35:4
CITY [1] - 1:2
city [8] - 44:3, 44:14, 45:3, 45:9, 45:12, 45:17, 45:18, 46:16
claim [1] - 44:1
clarification [1] - 15:18
clear [4] - 14:11, 16:12, 20:4, 36:11
close [1] - 40:1
closed [1] - 8:2
closing [8] - 7:5, 7:6, 10:10, 18:17, 18:18, 20:11, 20:15, 44:4
club [3] - 8:17, 11:17, 17:3
CMR [1] - 21:15
CO [1] - 44:6
college [1] - 11:18
coming [2] - 6:7, 14:7
commercial [1] - 44:18
COMMISSION [3] - 1:1, 1:4, 1:6
Commission [19] - 3:7, 5:6, 5:10, 24:5, 24:6, 28:15, 33:8, 33:11, 34:18, 37:8, 39:19, 40:10, 40:17, 42:12, 44:13, 45:8, 45:12, 46:13, 47:1
Commission's [2] - 26:17, 34:18
commissioner [1] - 5:8
Commissioner [3] - 3:14, 24:19, 40:19

COMMISSIONER [24] - 1:8, 7:13, 10:5, 13:2, 13:10, 18:2, 20:7, 21:3, 22:10, 23:14, 25:8, 26:2, 27:4, 29:4, 30:3, 30:16, 31:12, 31:16, 48:5, 48:10, 48:19, 49:7, 49:11, 50:1
Commissioners [2] - 3:12, 21:5
Commonwealth [2] - 52:3, 52:6
community [3] - 6:3, 6:8, 18:13
complete [1] - 42:10
completed [2] - 25:16, 39:2
compliance [2] - 44:7, 46:15
compromise [2] - 18:16, 19:4
computerized [1] - 48:3
concept [1] - 19:6
concern [3] - 6:18, 7:15, 44:15
concerning [2] - 36:16, 45:9
concerns [4] - 15:16, 19:5, 20:2, 40:13
concessions [2] - 6:19, 7:18
conclusions [2] - 38:9, 38:13
Conference [2] - 1:12, 3:10
confirm [1] - 49:3
consents [1] - 6:14
consideration [1] - 19:14
considered [2] - 41:17, 44:14
considering [2] - 23:11, 44:11
consistent [1] - 10:3
consultant [1] - 34:15
contact [3] - 35:1, 37:11, 37:12
contacted [1] - 37:15
contemplating [1] - 25:10
continue [8] - 19:10, 19:11, 25:9, 29:6, 29:16, 30:14, 31:10, 46:14
continued [1] - 40:2
continuing [1] - 45:19
CONTROL [1] - 52:17
control [3] - 10:19, 13:18, 14:3
conversation [24] - 5:2, 8:9, 8:17, 9:1, 9:2, 9:3, 9:8, 9:10, 9:17, 11:6, 16:1, 16:2, 16:13, 16:17, 17:7, 32:15, 35:12, 35:18, 36:1, 37:19, 38:8, 39:2, 39:5, 48:4
conversations [1] - 40:8
cooperatively [1] - 40:12

copy [1] - 39:4
corporation [1] - 21:13
correct [1] - 29:3
correction [1] - 51:2
corrections [1] - 51:11
correspondence [1] - 7:14
Councilor [1] - 18:6
Counsel [1] - 5:16
counsel [3] - 7:14, 30:15, 31:11
couple [1] - 36:2
course [7] - 5:18, 10:12, 29:13, 35:17, 38:7, 43:13, 43:17
Crossing [1] - 17:6
crowd [2] - 13:18, 14:3
culinary [1] - 19:10
culture [1] - 19:12
curious [1] - 13:6
current [1] - 4:11
cutting [1] - 41:17

D

D/B/A [4] - 2:5, 2:6, 26:5, 32:1
dance [1] - 8:17
data [2] - 35:16, 41:15
DATE [1] - 1:14
date [4] - 23:19, 30:15, 36:3, 51:3
David [1] - 26:12
days [3] - 36:2, 36:14, 37:9
deadline [1] - 30:5
dealing [2] - 47:6, 47:14
decided [1] - 6:10
decision [5] - 23:7, 23:9, 23:12, 25:3, 25:12
DECISION [1] - 1:4
Decision [2] - 3:7, 42:14
decisions [1] - 19:2
declined [1] - 40:18
deeper [1] - 45:2
DeFava [1] - 23:1
definitely [1] - 12:1
deliveries [1] - 41:9
demand [1] - 45:18
demonstrating [1] - 13:4
denial [1] - 29:17
deny [2] - 25:17, 29:9

department [1] - 23:2
Department [1] - 24:15
described [3] - 20:17, 25:14, 40:8
designed [1] - 41:16
desire [1] - 18:19
destination [1] - 19:10
details [1] - 41:11
development [1] - 46:2
different [2] - 17:17, 25:2
difficult [1] - 19:3
digital [2] - 32:14, 48:3
diplomatic [1] - 11:3
DIRECT [1] - 52:17
direct [3] - 6:9, 6:12, 6:14
direction [1] - 29:13
DIRECTION [1] - 52:18
Director [1] - 48:11
DIRECTOR [20] - 1:10, 3:4, 4:3, 15:17, 18:5, 21:11, 23:5, 26:7, 27:6, 27:19, 29:2, 29:19, 30:7, 30:12, 31:5, 32:3, 39:12, 48:15, 49:5, 49:14
directors [1] - 28:7
disadvantage [1] - 46:11
discern [1] - 9:9
discuss [1] - 18:13
discussion [2] - 5:11, 33:12
discussions [1] - 7:10
disperse [2] - 12:17, 14:18
disproves [1] - 28:4
disruption [1] - 10:11
distinguish [1] - 9:16
district [1] - 45:2
DJs [5] - 17:8, 17:10, 17:11, 17:12, 17:13
DJS [1] - 17:16
DOES [1] - 52:17
done [3] - 14:5, 38:1, 40:7
door [7] - 12:1, 12:3, 12:5, 12:16, 13:17, 14:18, 15:3
doors [1] - 14:15
doorway [1] - 13:8
down [1] - 11:16
Downtown [1] - 17:6
draconian [1] - 11:8

drawn [1] - 11:11
drop [1] - 7:8
drowned [1] - 9:2
drowns [1] - 43:15
Druid [1] - 9:15
due [1] - 26:17
Duong [1] - 26:9
during [6] - 7:11, 10:11, 28:19, 35:17, 37:19, 38:7

E

edge [1] - 41:18
effectively [1] - 10:19
effort [2] - 11:9, 19:4
efforts [3] - 13:5, 20:2, 47:10
ELIZABETH [20] - 1:10, 3:4, 4:3, 15:17, 18:5, 21:11, 23:5, 26:7, 27:6, 27:19, 29:2, 29:19, 30:7, 30:12, 31:5, 32:3, 39:12, 48:15, 49:5, 49:14
Elizabeth [1] - 39:10
email [2] - 36:12, 37:1
endorsing [1] - 22:13
enforce [1] - 45:13
enforcement [2] - 45:9, 46:17
engagement [1] - 34:4
engineer [3] - 34:1, 35:2, 41:15
engineers [3] - 40:3, 41:14, 49:4
enhance [1] - 19:8
enjoy [1] - 46:5
enter [1] - 43:19
entertainment [8] - 4:18, 6:5, 7:9, 7:10, 15:6, 20:17, 32:13, 48:1
entertainment/gaming [1] - 21:18
entire [1] - 47:12
entrance [3] - 14:11, 14:12, 15:2
entry [1] - 14:15
environmental [1] - 42:1
equipment [2] - 13:7, 41:12
ERRATA [1] - 51:1
errata [1] - 51:3
essentially [2] - 43:7, 46:13
establishments [2] - 10:13, 10:14
evening [2] - 22:18, 33:17
event [2] - 23:8, 23:11

evidence [1] - 42:11
exact [2] - 17:6, 36:3
excellent [1] - 18:11
except [1] - 51:11
excessive [3] - 9:6, 16:13, 16:14
exchange [2] - 40:4, 41:1
EXECUTIVE [20] - 1:10, 3:4, 4:3, 15:17, 18:5, 21:11, 23:5, 26:7, 27:6, 27:19, 29:2, 29:19, 30:7, 30:12, 31:5, 32:3, 39:12, 48:15, 49:5, 49:14
exemption [2] - 21:14, 21:16
exhaust [2] - 41:13, 41:17
existing [1] - 28:13
experience [6] - 11:17, 11:19, 12:5, 12:19, 42:7, 44:11
experts [1] - 41:2
expressed [1] - 6:18
extend [1] - 30:11
extensive [1] - 8:3

F

facade [1] - 19:7
fact [4] - 23:15, 25:12, 29:10
fair [2] - 36:13, 36:18
faith [1] - 19:4
far [2] - 25:3, 31:4
favor [5] - 21:2, 26:1, 31:15, 49:10, 49:19
favorably [2] - 20:3, 42:6
feedback [1] - 6:4
few [3] - 6:19, 16:7, 36:14
figure [1] - 29:12
file [2] - 15:18, 30:1
final [1] - 17:10
finally [1] - 46:6
findings [2] - 43:7, 49:3
fine [1] - 34:8
FIRE [26] - 1:9, 13:16, 14:2, 14:8, 15:12, 16:11, 16:15, 17:2, 17:9, 17:13, 18:4, 20:4, 20:19, 21:4, 24:11, 25:18, 27:16, 28:18, 30:13, 31:9, 31:17, 47:2, 48:8, 49:12, 49:16, 50:2
Firm [1] - 5:13

<p><u>first</u> [3] - 4:4, 5:17, 22:6 <u>flagging</u> [1] - 45:15 <u>follow</u> [2] - 25:15, 30:8 <u>follow-up</u> [1] - 25:15 <u>following</u> [1] - 20:10 <u>Food</u> [1] - 32:4 <u>FOOD</u> [2] - 2:6, 32:1 <u>food</u> [1] - 16:19 <u>foregoing</u> [1] - 51:11 <u>FOREGOING</u> [1] - 52:16 <u>forth</u> [1] - 52:8 <u>forward</u> [5] - 23:11, 23:17, 23:19, 25:11, 27:2 <u>foyer</u> [1] - 15:3 <u>Friday</u> [5] - 6:17, 7:3, 7:8, 32:9, 47:18 <u>front</u> [2] - 7:18, 14:18 <u>furthermore</u> [1] - 36:19 <u>future</u> [1] - 23:18</p>	<p>46:19, 49:9, 49:13, 49:18, 50:3 <u>Goldberg</u> [1] - 3:13 <u>gonna</u> [2] - 13:3, 13:19 <u>granting</u> [1] - 46:12 <u>great</u> [2] - 12:12, 19:6 <u>Green</u> [1] - 35:9 <u>grounds</u> [1] - 38:16 <u>Group</u> [2] - 4:9, 32:4 <u>GROUP</u> [2] - 2:6, 32:1 <u>grows</u> [1] - 45:18 <u>guaranty</u> [2] - 11:15, 12:10 <u>guess</u> [2] - 29:4, 30:13 <u>guide</u> [1] - 12:9 <u>guys</u> [1] - 12:6</p>
<u>G</u>	<u>H</u>
<p><u>gaming</u> [2] - 21:15, 22:18 <u>gap</u> [1] - 14:16 <u>gathering</u> [1] - 10:10 <u>general</u> [1] - 25:13 <u>General's</u> [1] - 21:14 <u>generated</u> [1] - 48:12 <u>Genki</u> [2] - 26:9, 27:15 <u>GENKI</u> [2] - 2:5, 26:5 <u>GERALD</u> [27] - 1:9, 13:16, 14:2, 14:8, 15:12, 16:11, 16:15, 17:2, 17:9, 17:13, 18:4, 20:4, 20:19, 21:4, 24:11, 25:18, 27:16, 28:18, 29:15, 30:13, 31:9, 31:17, 47:2, 48:8, 49:12, 49:16, 50:2 <u>Gerald</u> [1] - 3:13 <u>given</u> [3] - 23:15, 25:12, 44:5 <u>glad</u> [1] - 44:10 <u>GODEN</u> [2] - 2:2, 4:1 <u>Goden</u> [3] - 4:5, 5:14, 18:9 <u>GOLDBERG</u> [29] - 1:7, 5:4, 7:4, 8:8, 15:5, 15:9, 17:19, 19:15, 21:1, 22:1, 25:6, 25:19, 26:3, 27:14, 30:4, 30:10, 31:7, 31:14, 32:17, 33:10, 34:7, 39:9, 39:14, 42:13,</p>	<p><u>Haas</u> [1] - 3:14 <u>HAAS</u> [24] - 1:8, 7:13, 10:5, 13:2, 13:10, 18:2, 20:7, 21:3, 22:10, 23:14, 25:8, 26:2, 27:4, 29:4, 30:3, 30:16, 31:12, 31:16, 48:5, 48:10, 48:19, 49:7, 49:11, 50:1 <u>half</u> [1] - 6:2 <u>hamper</u> [1] - 28:17 <u>hand</u> [3] - 48:16, 48:17, 52:11 <u>handle</u> [1] - 28:5 <u>handy</u> [1] - 13:14 <u>hang</u> [1] - 11:18 <u>hang-out</u> [1] - 11:18 <u>hard</u> [1] - 9:16 <u>Harlow</u> [1] - 42:8 <u>health</u> [1] - 45:5 <u>hear</u> [10] - 8:18, 9:8, 9:19, 23:8, 23:12, 37:3, 42:16, 43:11, 44:2 <u>heard</u> [4] - 15:6, 33:17, 40:8, 42:17 <u>HEARING</u> [2] - 1:1, 1:4 <u>Hearing</u> [1] - 3:8 <u>hearing</u> [13] - 4:5, 5:8, 6:1, 25:13, 33:7, 33:17, 34:4, 35:1, 36:3, 36:14, 39:16, 52:8 <u>hearings</u> [4] - 33:8, 41:4, 42:6, 42:14 <u>held</u> [4] - 4:8, 18:13, 33:8, 44:6 <u>hello</u> [1] - 32:17 <u>help</u> [3] - 14:16, 15:3, 19:5</p>

<p><u>hereby</u> [2] - 51:12, 52:6</p> <p><u>herein</u> [1] - 52:8</p> <p><u>hereunto</u> [1] - 52:10</p> <p><u>highly</u> [1] - 23:10</p> <p><u>hire</u> [1] - 43:6</p> <p><u>history</u> [1] - 44:5</p> <p><u>Hit</u> [1] - 4:9</p> <p><u>HK</u> [3] - 2:6, 32:1, 32:4</p> <p><u>Hoang</u> [1] - 26:12</p> <p><u>holder</u> [1] - 26:9</p> <p><u>hope</u> [3] - 19:10, 19:19, 40:10</p> <p><u>hoping</u> [1] - 46:4</p> <p><u>host</u> [1] - 16:16</p> <p><u>hosted</u> [1] - 41:5</p> <p><u>hours</u> [8] - 6:4, 6:16, 7:2, 7:5, 7:7, 32:8, 47:17</p> <p><u>Hu</u> [1] - 26:14</p> <p><u>hundreds</u> [1] - 42:2</p> <p><u>hurdles</u> [1] - 25:1</p>	<p><u>initial</u> [2] - 18:18, 36:1</p> <p><u>initiative</u> [1] - 23:4</p> <p><u>Inman</u> [2] - 19:1, 19:9</p> <p><u>inside</u> [4] - 11:2, 12:16, 14:17</p> <p><u>INSTRUCTIONS</u> [1] - 51:2</p> <p><u>intention</u> [3] - 13:17, 45:3, 45:4</p> <p><u>interim</u> [1] - 40:6</p> <p><u>investigate</u> [1] - 35:9</p> <p><u>investigation</u> [2] - 35:11, 36:17</p> <p><u>issue</u> [7] - 10:6, 14:9, 33:19, 40:16, 42:17, 43:1, 46:1</p> <p><u>issued</u> [1] - 4:11</p> <p><u>issues</u> [4] - 23:16, 25:14, 35:10, 39:15</p> <p><u>items</u> [1] - 18:15</p> <p><u>itself</u> [1] - 40:11</p>
<u>I</u>	<u>J</u>
<p><u>idea</u> [2] - 11:16, 11:19</p> <p><u>immediate</u> [1] - 42:4</p> <p><u>immediately</u> [1] - 40:7</p> <p><u>impact</u> [1] - 47:5</p> <p><u>implemented</u> [1] - 41:13</p> <p><u>impossible</u> [1] - 9:3</p> <p><u>improvement</u> [1] - 19:7</p> <p><u>IN</u> [3] - 1:4, 52:10, 52:17</p> <p><u>Inc</u> [2] - 5:14, 26:8</p> <p><u>INC</u> [5] - 1:17, 2:2, 2:5, 4:1, 26:5</p> <p><u>inclined</u> [2] - 23:19, 30:8</p> <p><u>include</u> [3] - 4:19, 32:13, 48:2</p> <p><u>included</u> [1] - 6:11</p> <p><u>including</u> [1] - 41:8</p> <p><u>Incorporated</u> [2] - 4:6, 18:9</p> <p><u>increasing</u> [1] - 45:19</p> <p><u>INDEX</u> [1] - 2:1</p> <p><u>indicate</u> [1] - 38:8</p> <p><u>indication</u> [1] - 31:2</p> <p><u>information</u> [12] - 34:1, 35:16, 36:7, 36:8, 36:10, 36:11, 36:16, 37:5, 40:4, 40:6, 40:12, 41:2</p> <p><u>informed</u> [1] - 35:13</p> <p><u>informing</u> [1] - 38:14</p>	<p><u>Jackson</u> [1] - 5:6</p> <p><u>JAMES</u> [16] - 32:18, 33:16, 34:9, 34:17, 35:5, 35:14, 36:4, 36:13, 37:3, 37:7, 37:11, 37:17, 38:7, 39:3, 39:7, 39:18</p> <p><u>James</u> [1] - 32:19</p> <p><u>Jill</u> [2] - 52:5, 52:13</p> <p><u>Jim</u> [1] - 34:16</p>
	<u>K</u>
	<p><u>KAPPA</u> [2] - 2:3, 21:8</p> <p><u>Kappa</u> [1] - 21:12</p> <p><u>keep</u> [7] - 11:2, 12:1, 12:8, 12:15, 12:17, 14:10, 14:17</p> <p><u>keeping</u> [1] - 11:3</p> <p><u>Kendall</u> [1] - 46:2</p> <p><u>kept</u> [1] - 45:14</p> <p><u>KEVIN</u> [18] - 8:1, 9:13, 11:14, 13:9, 13:12, 13:19, 14:4, 14:14, 15:8, 15:11, 15:14, 16:14, 16:19, 17:4, 17:12, 17:16, 19:17, 21:5</p> <p><u>Kevin</u> [2] - 4:6, 5:14</p> <p><u>kind've</u> [1] - 11:9</p> <p><u>kinds</u> [1] - 13:5</p> <p><u>kitchen</u> [2] - 41:11, 41:12</p> <p><u>knowledge</u> [1] - 10:4</p> <p><u>Kourafas</u> [2] - 52:5, 52:13</p>

<u>L</u>		
<u>L-E-S-S-E-R</u> [1] - 33:5	<u>Lint</u> [1] - 27:17	
<u>L-I-N-D-S-E-Y</u> [1] - 22:8	<u>LINT</u> [20] - 1:10, 3:4, 4:3, 15:17, 18:5, 21:11, 23:5, 26:7, 27:6, 27:19, 29:2, 29:19, 30:7, 30:12, 31:5, 32:3, 39:12, 48:15, 49:5, 49:14	
<u>lab</u> [1] - 45:16	<u>liquor</u> [1] - 28:19	
<u>Landing</u> [1] - 12:6	<u>listen</u> [1] - 43:19	
<u>landlord</u> [1] - 8:3	<u>live</u> [8] - 4:19, 6:5, 6:12, 7:9, 15:7, 15:8, 17:10, 43:17	
<u>large</u> [1] - 11:5	<u>LLC</u> [6] - 2:6, 4:9, 5:13, 32:1, 32:4, 33:3	
<u>last</u> [8] - 5:17, 14:6, 22:7, 33:11, 36:2, 36:14, 39:16, 47:3	<u>loads</u> [1] - 12:19	
<u>late</u> [2] - 6:16, 17:1	<u>location</u> [4] - 41:8, 41:10, 41:18, 47:7	
<u>Law</u> [1] - 5:13	<u>locations</u> [1] - 38:4	
<u>laws</u> [1] - 14:3	<u>Lombardi</u> [2] - 1:12, 3:9	
<u>lead</u> [1] - 33:18	<u>look</u> [1] - 45:11	
<u>learn</u> [1] - 37:19	<u>looking</u> [5] - 22:12, 25:11, 25:15, 29:12, 46:7	
<u>least</u> [2] - 9:14, 13:4	<u>losing</u> [1] - 27:9	
<u>leave</u> [2] - 14:12, 43:18	<u>loud</u> [2] - 9:18, 17:14	
<u>leaving</u> [1] - 46:1		
<u>left</u> [1] - 4:4	<u>M</u>	
<u>lend</u> [1] - 18:8	<u>M-A-R-K-H-A-M</u> [1] - 34:14	
<u>Lesser</u> [4] - 33:4, 33:6, 36:9, 42:7	<u>machine/CD</u> [1] - 48:2	
<u>letter</u> [4] - 18:6, 22:12, 23:3, 24:14	<u>machine/CD/computerized</u> [1] - 32:14	
<u>level</u> [17] - 5:2, 8:9, 8:17, 9:1, 9:4, 9:9, 9:17, 16:1, 16:2, 16:13, 16:17, 17:3, 17:7, 32:15, 41:4, 48:4	<u>maintain</u> [1] - 44:19	
<u>levels</u> [2] - 20:14, 38:3	<u>maintaining</u> [1] - 9:11	
<u>LICENSE</u> [3] - 1:1, 1:4, 1:6	<u>malt</u> [1] - 26:10	
<u>License</u> [6] - 3:7, 5:6, 26:17, 45:7, 45:12, 52:14	<u>manage</u> [2] - 10:8, 10:19	
<u>license</u> [24] - 4:8, 4:11, 4:12, 4:19, 7:9, 10:4, 20:17, 26:10, 27:12, 27:13, 28:2, 28:3, 28:13, 28:19, 29:9, 30:2, 31:1, 32:7, 32:13, 38:17, 46:12, 47:15, 48:1	<u>manager</u> [7] - 4:6, 13:18, 14:3, 26:9, 26:11, 32:5, 33:3	
<u>licensee</u> [4] - 15:19, 47:7, 47:10, 47:12	<u>manner</u> [2] - 12:18, 14:18	
<u>licensees</u> [1] - 16:16	<u>map</u> [1] - 46:10	
<u>licenses</u> [1] - 26:19	<u>March</u> [1] - 21:19	
<u>LINDSEY</u> [6] - 22:4, 22:8, 23:7, 24:10, 25:5, 26:4	<u>marginal</u> [1] - 46:15	
<u>Lindsey</u> [2] - 22:4, 22:6	<u>marginally</u> [1] - 44:8	
<u>line</u> [3] - 18:18, 18:19, 43:8	<u>mARILYN</u> [1] - 43:3	
<u>LINE</u> [1] - 51:4	<u>Marilyn</u> [1] - 43:4	
<u>lingering</u> [1] - 10:6	<u>MARILYN</u> [1] - 43:5	
	<u>marketing</u> [1] - 46:8	
	<u>Markham</u> [6] - 34:2, 34:3, 34:9, 34:13, 40:9, 42:18	
	<u>MARKHAM</u> [12] - 34:13, 35:3, 35:6,	

35:19, 36:5, 36:18, 37:6, 37:9,
37:13, 38:1, 38:11, 39:6

Markham's [1] - 43:8

Mass [9] - 3:10, 35:8, 43:12, 43:14,
43:18, 44:5, 44:13, 45:16, 47:16

Massachusetts [5] - 1:13, 1:13,
32:7, 52:3, 52:6

matter [8] - 4:4, 17:14, 24:7,
25:10, 29:6, 40:1, 40:2, 45:6

matters [1] - 5:9

MATTERS [1] - 2:1

mean [3] - 7:5, 13:9, 30:17

means [1] - 45:11

measure [1] - 9:3

measurements [1] - 39:1

mechanical [3] - 38:2, 41:12, 41:15

mechanisms [1] - 46:17

media [2] - 32:14, 48:3

meet [2] - 22:15, 47:11

meeting [9] - 3:8, 3:15, 6:10, 7:11,
18:13, 33:12, 33:14, 47:3, 50:5

meetings [3] - 6:8, 41:5, 48:18

member [1] - 22:5

MEMBERS [1] - 1:6

mentioned [1] - 14:9

Merchant [1] - 17:6

merely [1] - 8:18

met [2] - 18:14, 23:1

Michael [4] - 1:12, 3:9, 32:5, 33:2

MIT [7] - 2:4, 21:9, 21:13, 22:16,
23:6, 24:3, 24:15

MIT's [1] - 23:4

mixed [1] - 46:2

mixed-use [1] - 46:2

modifications [1] - 20:16

moment [1] - 34:5

Monday [2] - 32:9, 47:17

month [3] - 20:18, 48:6, 48:8

morning [8] - 3:8, 5:12, 26:15,
28:9, 32:18, 34:2, 36:12, 40:9

most [1] - 36:8

motion [12] - 20:8, 20:9, 25:7,
25:9, 25:16, 30:14, 31:8, 31:9,
47:15, 48:6, 49:8, 49:16

move [1] - 23:17

moving [1] - 25:11

MU [2] - 2:3, 21:8

Mu [5] - 21:12, 22:2, 22:5, 22:15,
23:1

music [9] - 4:19, 5:1, 8:18, 9:1,
9:8, 9:9, 15:7, 15:8, 17:7

must [1] - 14:10

N

name [7] - 5:12, 5:17, 22:7, 34:10,
34:13, 43:4

Nang [1] - 26:12

nature [1] - 8:14

nearby [1] - 46:11

need [1] - 48:13

needed [3] - 37:2, 37:15, 40:16

needs [1] - 46:16

negative [1] - 25:4

neighborhood [5] - 9:14, 10:2, 42:4,
47:11, 47:13

neighbors [10] - 11:12, 13:3, 14:6,
18:19, 19:5, 35:2, 38:9, 40:12,
40:14, 42:19

neighbors' [2] - 15:15, 20:2

nevertheless [1] - 44:8

new [12] - 14:15, 15:2, 18:14,
26:12, 26:13, 28:1, 28:2, 28:7,
28:12, 28:15, 30:2, 32:6

news [4] - 43:9, 43:13, 43:16, 44:10

next [1] - 12:3

nice [1] - 12:18

night [5] - 8:2, 17:1, 22:14, 24:1,
44:2

nights [2] - 20:12, 21:19

noise [19] - 6:18, 9:6, 10:11, 38:3,
42:17, 43:1, 43:11, 43:14, 43:15,
43:17, 43:19, 44:2, 44:7, 45:9,
45:13, 45:15, 46:17, 47:13, 48:12

noncompliant [1] - 44:8

nonprofit [1] - 21:13

nontransferable [3] - 26:18, 27:13,
28:3

nonvalue [1] - 27:12

Norfolk [1] - 52:4

normally [2] - 42:14, 42:15

<p><u>NOT</u> [1] - 52:17 <u>Notary</u> [2] - 52:5, 52:15 <u>note</u> [1] - 51:2 <u>noted</u> [1] - 51:11 <u>noticeably</u> [1] - 43:11 <u>noticed</u> [1] - 7:14 <u>numerically</u> [1] - 38:5</p>	<p><u>orderly</u> [2] - 12:18, 14:18 <u>ordinance</u> [4] - 44:7, 45:10, 45:13, 46:17 <u>outreach</u> [2] - 6:8, 41:4 <u>outside</u> [3] - 10:8, 10:15, 11:1 <u>own</u> [4] - 35:10, 45:1, 46:8, 46:16 <u>owner</u> [1] - 18:12 <u>owners</u> [1] - 46:6</p>
<u>O</u>	<u>P</u>
<p><u>object</u> [1] - 38:16 <u>obviously</u> [2] - 24:13, 24:17 <u>occasional</u> [1] - 49:2 <u>occupancy</u> [1] - 4:15 <u>occur</u> [1] - 35:18 <u>occurred</u> [2] - 34:6, 36:2 <u>occurring</u> [1] - 41:9 <u>October</u> [1] - 24:8 <u>OF</u> [7] - 1:2, 2:1, 2:3, 21:8, 52:16, 52:17, 52:18 <u>officer/director</u> [1] - 26:13 <u>officers</u> [1] - 28:6 <u>officers/directors</u> [1] - 30:19 <u>OFFICIAL</u> [1] - 1:17 <u>one</u> [19] - 5:1, 8:15, 10:6, 12:5, 16:7, 17:10, 20:11, 22:12, 22:14, 29:5, 33:2, 33:18, 36:10, 39:16, 40:18, 42:19, 47:14, 48:13 <u>one-night</u> [1] - 22:14 <u>one-person</u> [1] - 5:1 <u>open</u> [2] - 6:10, 7:11 <u>opened</u> [1] - 9:16 <u>opening</u> [4] - 6:16, 7:2, 7:5, 8:7 <u>opens</u> [2] - 48:14, 49:3 <u>operate</u> [1] - 4:12 <u>operated</u> [1] - 18:10 <u>operating</u> [2] - 30:18, 42:8 <u>operation</u> [1] - 32:8 <u>operational</u> [1] - 10:18 <u>operations</u> [2] - 20:12, 41:7 <u>opinion</u> [2] - 38:15, 46:1 <u>opportunity</u> [3] - 30:1, 40:3, 43:6 <u>opposed</u> [2] - 6:16, 31:3 <u>opposition</u> [1] - 18:15 <u>opt</u> [1] - 29:16 <u>options</u> [1] - 31:11</p>	<p><u>p.m</u> [3] - 20:14, 32:8, 47:17 <u>PAGE</u> [2] - 2:1, 51:4 <u>parallel</u> [1] - 35:10 <u>Parkway</u> [1] - 26:11 <u>part</u> [6] - 6:7, 7:1, 8:10, 8:12, 11:9, 29:8 <u>participate</u> [2] - 5:7, 5:10 <u>particular</u> [3] - 24:18, 47:6, 47:7 <u>particularly</u> [2] - 10:9, 11:10 <u>passed</u> [1] - 21:19 <u>past</u> [1] - 28:6 <u>pat</u> [1] - 46:14 <u>patrons</u> [5] - 10:8, 10:15, 43:18, 44:1, 47:19 <u>pending</u> [1] - 44:6 <u>people</u> [8] - 6:12, 9:7, 10:19, 11:4, 13:17, 14:11, 14:17, 16:7 <u>perhaps</u> [1] - 42:19 <u>period</u> [2] - 28:19, 29:8 <u>permeate</u> [1] - 45:17 <u>permissible</u> [1] - 29:11 <u>permitted</u> [1] - 44:3 <u>person</u> [2] - 5:1, 42:19 <u>personal</u> [1] - 16:9 <u>perspective</u> [3] - 23:15, 25:4, 34:6 <u>Phoenix</u> [3] - 12:6, 13:13, 17:17 <u>phone</u> [2] - 3:5, 36:6 <u>piece</u> [1] - 36:10 <u>place</u> [3] - 10:18, 22:17 <u>places</u> [1] - 46:3 <u>plan</u> [6] - 14:15, 15:2, 16:19, 17:11, 22:17, 24:4 <u>planning</u> [4] - 13:7, 13:12, 24:7, 44:15 <u>plans</u> [3] - 10:17, 10:18, 38:13</p>

played [3] - 5:2, 32:15, 48:3
pleasant [1] - 35:11
plus [1] - 6:12
point [6] - 23:2, 25:16, 29:18, 38:12, 44:12, 46:6
POLICE [24] - 1:8, 7:13, 10:5, 13:2, 13:10, 18:2, 20:7, 21:3, 22:10, 23:14, 25:8, 26:2, 27:4, 29:4, 30:3, 30:16, 31:12, 31:16, 48:5, 48:10, 48:19, 49:7, 49:11, 50:1
police [4] - 22:16, 23:1, 24:3, 45:8
Police [1] - 24:15
policy [1] - 21:18
pollution [1] - 14:17
popular [1] - 10:16
population [1] - 10:2
possible [3] - 12:7, 12:15, 49:1
preliminarily [1] - 5:5
preliminary [1] - 6:1
premise [1] - 4:18
premises [4] - 6:11, 14:1, 41:5, 41:6
prepared [2] - 23:17, 47:3
present [1] - 34:2
presented [1] - 6:2
principal [2] - 22:11, 23:16
principals [1] - 33:3
problem [4] - 27:18, 28:1, 28:12, 45:19
problems [1] - 26:16
proceed [1] - 28:1
proceedings [1] - 52:9
producing [1] - 38:18
prohibiting [1] - 21:18
prohibits [1] - 21:15
project [1] - 6:15
propensity [1] - 17:14
properties [1] - 45:1
property [3] - 35:9, 42:5, 45:5
proposal [1] - 22:13
proposed [5] - 32:8, 32:10, 46:5, 47:17, 47:19
protected [1] - 45:4
provide [2] - 38:9, 40:6
provided [6] - 35:16, 36:9, 36:15,

37:5, 40:11, 41:11
pub [2] - 8:14, 8:16
Public [2] - 52:5, 52:15
public [4] - 33:7, 41:4, 42:15
Puritan [1] - 12:2
purpose [1] - 16:17
purposes [1] - 46:8
pushing [1] - 31:4
put [3] - 15:2, 28:9, 38:12

Q

quality [1] - 45:1
Que [1] - 26:9
questions [3] - 18:1, 18:3, 47:1
quick [1] - 12:15
quiet [4] - 8:15, 8:16, 16:8
quite [1] - 46:1
quote [1] - 40:18

R

radio [1] - 5:1
RAFFERTY [16] - 32:18, 33:16, 34:9, 34:17, 35:5, 35:14, 36:4, 36:13, 37:3, 37:7, 37:11, 37:17, 38:7, 39:3, 39:7, 39:18
Rafferty [1] - 32:19
raised [1] - 39:15
ran [1] - 11:17
rather [1] - 18:17
rationale [2] - 9:11, 16:6
RE [1] - 1:4
reach [2] - 10:1, 10:14
reached [2] - 37:14, 37:17
read [2] - 18:7, 51:11
reading [1] - 51:2
readings [1] - 49:2
really [4] - 9:18, 10:8, 28:4, 28:6
REARDON [27] - 1:9, 13:16, 14:2, 14:8, 15:12, 16:11, 16:15, 17:2, 17:9, 17:13, 18:4, 20:4, 20:19, 21:4, 24:11, 25:18, 27:16, 28:18, 29:15, 30:13, 31:9, 31:17, 47:2, 48:8, 49:12, 49:16, 50:2
Reardon [1] - 3:13
REASON [6] - 51:5, 51:6, 51:7, 51:8,

51:9, 51:10
reason [2] - 44:16, 51:2
reasonably [1] - 44:6
received [4] - 7:15, 23:3, 23:6, 39:3
recently [1] - 41:18
recommendations [1] - 39:4
record [6] - 18:7, 32:19, 41:3, 42:10, 51:12, 52:9
RECORD [1] - 1:17
recording [1] - 13:7
reduce [1] - 7:2
reducing [1] - 20:13
regard [4] - 21:17, 26:18, 27:1, 38:10
regarding [2] - 6:4, 8:4
regs [1] - 27:8
regulate [3] - 11:10, 12:7, 22:18
regulation [1] - 21:15
regulations [2] - 26:18, 29:11
Regulations [1] - 21:17
relative [2] - 22:17, 23:4
remain [1] - 45:5
remains [2] - 16:6, 44:8
removed [1] - 15:15
replacing [1] - 5:6
replete [1] - 41:3
report [2] - 33:16, 39:4
REPORTER [3] - 5:16, 22:6, 52:18
Reporter [1] - 52:14
REPORTERS [1] - 1:17
reports [1] - 47:5
representation [2] - 16:10, 18:12
representations [1] - 7:17
representatives [1] - 48:17
representing [1] - 5:14
REPRODUCTION [1] - 52:17
request [3] - 7:9, 8:10, 9:11
requested [2] - 6:5, 36:16
requirements [1] - 24:2
researched [1] - 41:16
residential [3] - 44:19, 45:2
residents [2] - 10:6, 38:14
respect [2] - 20:13, 25:14
RESPECT [1] - 52:17

respected [1] - 40:5
response [3] - 35:17, 37:14, 37:16
responsible [2] - 18:12, 47:12
restaurant [19] - 4:8, 8:14, 8:16, 9:7, 10:9, 12:2, 17:5, 17:18, 19:7, 26:10, 32:7, 38:3, 38:18, 41:8, 42:9, 43:10, 43:15, 46:5, 49:3
restaurant/bar [1] - 17:8
restaurants [1] - 46:10
retained [1] - 35:8
review [4] - 15:18, 20:18, 48:7, 48:9
revolved [1] - 23:16
ROBERT [24] - 1:8, 7:13, 10:5, 13:2, 13:10, 18:2, 20:7, 21:3, 22:10, 23:14, 25:8, 26:2, 27:4, 29:4, 30:3, 30:16, 31:12, 31:16, 48:5, 48:10, 48:19, 49:7, 49:11, 50:1
Robert [1] - 3:14
Room [2] - 1:12, 3:11
Rules [1] - 21:17
rules [3] - 26:17, 27:8, 27:11

S

S-C-E-L-F-O [1] - 33:2
S-T-O-R-C-H [1] - 35:6
safety [1] - 22:17
SAME [1] - 52:17
satisfied [2] - 24:3, 40:11
satisfy [1] - 24:1
Saturday [6] - 4:14, 6:17, 7:3, 7:8, 32:10, 47:18
Scelfo [3] - 32:5, 33:2, 42:7
scelfo [1] - 33:6
Scelfo's [1] - 33:4
Schlossberg [1] - 5:13
SCOTT [10] - 5:12, 5:18, 5:19, 7:6, 8:12, 10:3, 16:3, 19:19, 20:6, 21:6
Scott [2] - 5:13, 5:18
Seated [1] - 33:1
seating [3] - 4:15, 32:10, 47:19
second [3] - 20:19, 25:18, 49:8
seconded [2] - 31:13, 49:18
secondly [2] - 20:12, 22:14
see [1] - 29:7

seeking [1] - 21:16
sending [1] - 24:14
sense [1] - 40:17
sent [3] - 28:16, 36:11, 37:1
September [2] - 31:6, 31:10
seriously [1] - 28:17
serve [1] - 16:19
serving [1] - 38:2
set [4] - 18:4, 30:18, 52:8, 52:10
share [2] - 34:18, 37:7
SHEET [1] - 51:1
sheet [2] - 51:3
Shorthand [1] - 52:14
side [1] - 12:2
Sign [1] - 51:3
signatures [1] - 42:2
similar [1] - 24:19
similarly [1] - 24:12
simply [1] - 29:9
sit [1] - 34:11
site [1] - 44:2
six [3] - 20:18, 48:6, 48:8
six-month [3] - 20:18, 48:6, 48:8
smoke [1] - 11:2
smoking [1] - 11:5
someone [1] - 42:18
sometimes [1] - 9:1
sooner [1] - 31:2
sorry [4] - 7:6, 16:3, 35:19, 48:9
sound [11] - 14:17, 20:13, 33:13, 33:19, 34:1, 35:2, 35:10, 38:18, 39:1, 40:3, 41:14
soundproofed [1] - 8:6
soundproofing [2] - 8:5, 15:4
special [1] - 44:15
specifically [1] - 41:16
spell [4] - 5:17, 22:6, 34:10, 35:5
spoken [1] - 28:10
spread [1] - 45:17
Square [3] - 19:1, 19:9, 46:2
ss [1] - 52:4
stack [1] - 14:11
STAFF [1] - 1:10
staff [1] - 12:1
standards [2] - 44:9, 46:18

state [1] - 44:3
statement(s [1] - 51:12
stenographer [1] - 34:11
steps [1] - 18:15
still [2] - 8:10, 8:12
stipulations [1] - 20:10
stock [2] - 26:13, 28:7
stockholder [1] - 26:12
stockholders [3] - 27:9, 27:10, 28:8
Storch [8] - 35:4, 35:7, 35:17, 36:15, 37:4, 37:10, 38:8, 39:11
story [1] - 25:3
street [1] - 43:18
Street [13] - 4:5, 4:10, 5:14, 6:13, 11:4, 11:16, 12:9, 12:10, 14:7, 18:9, 19:8, 19:9, 35:9
STREET [2] - 2:2, 4:1
streets [1] - 42:4
streetscape [1] - 19:8
stretch [1] - 44:13
student [1] - 22:13
submitted [1] - 42:2
subscribe [1] - 51:12
substantially [1] - 38:5
successful [1] - 10:1
Sunday [3] - 4:13, 32:10, 47:19
support [7] - 18:8, 22:12, 23:4, 24:13, 24:17, 42:3, 42:11
supported [1] - 24:2
surrounding [2] - 41:12, 42:4
suspect [1] - 40:14
system [3] - 15:1, 41:13, 41:17
systems [1] - 38:2

T

tables [1] - 41:11
Tai [1] - 26:9
talks [1] - 9:15
tape [2] - 32:13, 48:2
taped [1] - 3:15
taxis [2] - 12:14, 14:19
technically [2] - 27:8, 30:19
telephone [3] - 35:3, 36:5, 37:10
temporarily [1] - 5:7
terms [4] - 11:4, 26:16, 47:13,

48:12
testified [1] - 33:6
testimony [2] - 42:5, 42:15
THE [7] - 1:17, 5:16, 22:6, 52:16,
 52:17, 52:17, 52:18
Theater [1] - 21:13
therefor [1] - 51:2
THETA [2] - 2:4, 21:9
thinks [2] - 27:2, 43:10
thirdly [1] - 20:16
THIS [1] - 52:16
throughout [1] - 45:18
Thursday [6] - 1:14, 3:8, 4:14,
 6:16, 7:2, 7:7
TIME [1] - 1:15
TO [1] - 52:17
today [6] - 5:10, 6:7, 25:3, 27:1,
 28:11, 39:17
together [1] - 33:14
TON [1] - 4:8
tool [1] - 46:8
Toomey [1] - 18:6
total [1] - 4:15
totally [2] - 8:6, 17:17
toured [1] - 41:5
towards [1] - 12:9
traffic [1] - 43:18
transcript [3] - 51:2, 51:11, 51:12
TRANSCRIPT [1] - 52:16
transfer [5] - 4:7, 26:13, 27:11,
 28:7, 29:10
trash [1] - 41:8
TREANOR [18] - 8:1, 9:13, 11:14,
 13:9, 13:12, 13:19, 14:4, 14:14,
 15:8, 15:11, 15:14, 16:14, 16:19,
 17:4, 17:12, 17:16, 19:17, 21:5
Treanor [10] - 4:6, 5:14, 6:11,
 6:19, 7:17, 13:16, 18:10, 18:16,
 19:3, 19:6
Treanor's [2] - 18:13, 19:11
Tremont [4] - 11:4, 11:16, 12:9,
 14:7
tricky [1] - 10:7
true [1] - 52:9
try [6] - 11:14, 12:8, 12:14, 12:17,

44:19, 47:11
trying [2] - 11:2, 14:12
turn [1] - 3:6
turned [1] - 28:14
TVs [3] - 5:3, 32:16, 48:4
two [9] - 6:2, 14:15, 22:11, 29:5,
 33:7, 37:9, 40:3, 41:3, 41:5
two-and-a-half [1] - 6:2
type [1] - 47:9

U

Über [1] - 12:12
Übers [2] - 12:13, 14:19
under [2] - 27:8, 27:11
UNDER [1] - 52:17
understood [3] - 26:15, 36:4, 40:4
university [2] - 24:2, 24:14
UNLESS [1] - 52:17
up [9] - 10:7, 22:3, 24:7, 25:15,
 31:4, 34:10, 35:15, 44:6, 45:14
upstairs [1] - 8:4
urge [1] - 42:12
urging [1] - 40:1
utmost [1] - 12:4

V

value [2] - 27:13, 28:2
values [1] - 45:5
various [1] - 44:16
Venture [1] - 4:8
vibe [2] - 16:9, 17:17
videotaped [1] - 3:16
violation [2] - 30:19, 31:1
visited [1] - 9:13
vote [3] - 5:11, 40:18, 47:4
voting [2] - 5:9, 40:1

W

W-A-T-T-L-E-Y [1] - 22:9
W-E-L-L-O-N-S [1] - 43:5
W-O-L-F [1] - 5:19
WAHOO [1] - 26:5
wahoo [1] - 26:8
wait [1] - 10:15
waited [1] - 47:4

waiting [1] - 11:1
walk [1] - 9:7
walked [2] - 36:6, 41:6
WATTLEY [6] - 22:4, 22:8, 23:7,
 24:10, 25:5, 26:4
Wattley [1] - 22:4
WAYPOINT [2] - 2:6, 32:1
Waypoint [2] - 32:5, 47:16
ways [1] - 29:5
website [1] - 46:9
Wednesday [1] - 4:13
week [1] - 20:5
weekend [1] - 6:4
weeks [1] - 6:2
welcome [1] - 43:2
WELLONS [1] - 43:3
Wellons [1] - 43:4
WHAOO [1] - 2:5
WHEREOF [1] - 52:10
Wicket [1] - 4:9
willing [2] - 7:18, 31:3
willingness [1] - 29:7
windows [3] - 7:16, 8:1, 20:15
wine [1] - 26:10
wish [1] - 40:15
WITNESS [1] - 52:10
witnesses [1] - 42:6
WOLF [9] - 5:12, 5:18, 7:6, 8:12,
 10:3, 16:3, 19:19, 20:6, 21:6
Wolf [2] - 5:13, 5:19
word [1] - 33:14
works [1] - 30:15
writing [3] - 18:8, 38:12, 39:10
www.reportersinc.com [1] - 1:18

Y

YA [2] - 2:5, 26:5
years [4] - 11:16, 14:5, 18:11,
 44:13
yesterday [1] - 35:12
younger [1] - 10:2

Z

ZETA [2] - 2:3, 21:8
Zeta [4] - 22:2, 22:5, 22:15, 23:1

Zetu [1] - 21:12
zones [2] - 44:17, 44:19
zoning [1] - 47:8